REMARKS

Claims 18 - 19 and 28 have been amended, and Claims 32 - 38 have been added. No new matter has been introduced with these amendments or added claims, all of which are supported in the application as originally filed. Claims 1 - 17, 22 - 27, and 29 - 31 were previously cancelled from the application without prejudice. Claims 18 - 21, 28, and 32 - 38 are now in the application.

Applicants are <u>not</u> conceding that the subject matter encompassed by the claims as presented prior to this Amendment is not patentable over the art cited by the Examiner, and claim amendments and cancellations made in the present application are directed toward facilitating expeditious prosecution of the application and allowance of the currently-presented claims at an early date. Applicants respectfully reserve the right to pursue claims, including the subject matter encompassed by the claims presented prior to this Amendment and additional claims, in one or more continuing applications.

I.   Non-Patent Literature Missing from Image File Wrapper

Applicants note that the printed publication by Willcocks et al., titled "Information Technology Outsourcing in Europe and the USA ...", which was cited on PTO Form 892 in the Office Action dated July 22, 2009 (hereinafter, "the Office Action"), has not been placed in the Image File Wrapper. The Examiner is respectfully requested to place a copy of this reference in the Image File Wrapper.

II.   Rejection under 35 U. S. C. §101

Paragraph 5 of the Office Action states that Claims 18 - 21 are rejected under 35 U. S. C. §101 as being directed to non-statutory subject matter. In the interest of progressing rapidly to issuance, independent Claim 18 has been amended herein to recite that the "programmatically computing" is performed "using computer-readable program code executed by a computer". Accordingly, Applicants respectfully submit that Claims 18 - 21 recite statutory subject matter as currently presented, and the Examiner is therefore respectfully requested to withdraw the §101 rejection.

III.   Rejections under 35 U. S. C. §102

Paragraph 7 of the Office Action states that Claims 18, 20, and 21 are rejected under 35 U.S.C. §102(e) as being anticipated by U. S. Patent 6,895,382 to Srinivasan et al. (hereinafter, "Srinivasan"). Paragraph 8 of the Office Action states that Claim 28 is rejected under 35 U.S.C. §102(e) as being anticipated by U. S. Patent Publication 2005/0065831 A1 to Keay et al. (hereinafter, "Keay"). These rejections are respectfully traversed with regard to the claims as currently presented.

MPEP §706.02, paragraph V, states with regard to an anticipation rejection under 35 U.S.C. §102, "... the reference must teach every aspect of the claimed invention either explicitly or impliedly" (emphasis added). In addition, the Court of Appeals for the Federal Circuit held that a finding of anticipation requires absolute identity for each and every element set forth in the claimed invention. See *Trintec Indus. v. Top-U.S.A. Corp.,* 63 U.S.P.Q.2d 1597 (Fed. Cir. 2002).

Referring first to independent Claim 18, Applicants note that the Office Action fails to provide citations for the "programmatically computing a value ..." claim element (now recited on lines 9 - 14 of Claim 18) and the "assigning the determined resources ..." claim element (now recited on line 15 of Claim 18). See p. 4, last 6 lines of the Office Action, which quote this claim language but provide no citations. Accordingly, the Office Action fails to demonstrate that Srinivasan teaches every aspect of the claimed invention as recited in Claim 18, in violation of MPEP §706.02. A *prima facie* case of anticipation has therefore not been made out as to Claim 18, and without more, this claim is deemed patentable. Dependent Claims 19 - 21 are deemed patentable over Srinivasan at least by virtue of the patentability of independent Claim 18 from which they depend.

Referring next to independent Claim 28, Applicants note that the Office Action cites paras. [0043] and [0058] of Keay as teaching the "using the programmatically-computed value to programmatically select a particular location ..." claim element (now recited on lines 16 - 19 of Claim 28). Applicants respectfully disagree. Para. [0043] discusses various types of simulation, but is silent on programmatically selecting a location. Para. [0058] discusses selecting business processes to perform for a client organization, but is silent on programmatically selecting a location. These paras. [0043] and [0058] are also cited for teaching the "cost factors pertaining ..." claim element (now recited on lines 9 - 10 of Claim 28). However, Applicants note that this claim element further recites "... in the candidate locations", referring to locations in the plural. Applicants respectfully submit that these cited paragraphs are silent regarding a plurality of locations. Accordingly, because Keay does not teach every aspect of independent Claim 28, as

required by MPEP §706.02, Applicants respectfully submit that Keay does not anticipate Claim 28. Furthermore, because Keay does not disclose <u>each and every element</u> of Claim 28, with <u>absolute identity</u>, Claim 28 is not anticipated by Keay according to *Trintec Indus.* Without more, Claim 28 is deemed patentable.

In view of the above, the Examiner is respectfully requested to withdraw the §102 rejections of all claims as currently presented.

III.   <u>Rejection under 35 U. S. C. §103(a)</u>

Paragraph 10 of the Office Action states that Claim 19 is rejected under 35 U. S. C. §103(a) as being unpatentable over Srinivasan in view of Baker et al., "Project Management" (hereinafter, "Baker"). This rejection is respectfully traversed.

As demonstrated above, a *prima facie* case of anticipation has not been made out with regard to independent Claim 18. Dependent Claim 19 is therefore deemed patentable at least by virtue of the patentability of Claim 18 from which it depends. The Examiner is therefore respectfully requested to withdraw the §103 rejection.

IV.   <u>Added Claims</u>

Applicants respectfully submit that neither Srinivasan, Keay, or Baker disclose the claim recitations of added dependent Claims 32 -35 and 37 - 38. These claims are therefore deemed patentable as currently presented. Added independent Claim 36 recites claim language adapted

from independent Claim 28, and is therefore deemed patentable over Keay for the same reasons presented above when discussing Claim 28.

V.   Conclusion

Applicants respectfully request reconsideration of the pending rejected claims, withdrawal of all presently outstanding rejections, and allowance of all currently-presented claims at an early date.

Respectfully submitted,

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